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13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 UNITED STATES OF AMERICA,

16 v.

17 JEFFREY B. KELLER,

18 Defendant
19

Case No. 13CR0424-JLS

JOINT MOTION FOR PAYMENT OF
RESTITUTION WITH BOND MONEY

20 It is hereby jointly requested by the plaintiff, United States of America, by and
21 through its counsel, Adam L. Braverman, United States Attorney, and Luella M. Caldito,
22 Assistant United States Attorney, and Defendant Jeffrey B. Keller, by and through his
23 counsel, Michael L. Lipman and Barbara Howe Murray, that the money posted for
24 Defendant's bond be applied to Defendant's restitution judgment pursuant to 28 U.S.C. §
25 2044. This motion is based upon the files and records of the case, together with the
26 attached statement of facts and memorandum of points and authorities.

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I

STATEMENT OF FACTS

On February 5, 2013, Defendant Jeffrey B. Keller (“Defendant”) was charged in an indictment with conspiracy to commit mail fraud, wire fraud, and money laundering, in violation of 18 U.S.C. § 371, mail fraud, in violation of 18 U.S.C. § 1341, wire fraud, in violation of 18 U.S.C. § 1343, money laundering, in violation of 18 U.S.C. § 1957, aiding and abetting, in violation of 18 U.S.C. § 2, and criminal forfeiture pursuant to 18 U.S.C. §§ 981(a)(1) and 982(a)(1)(C) and 28 U.S.C. § 2461(c). [Doc. No. 1.]¹

On or about February 6, 2013, United States Magistrate Judge William V. Gallo set a \$50,000 cash bond. [Doc. No. 5.] On or about February 6, 2017, the cash bond in the amount of \$50,000 was deposited with the Clerk’s Office. [Doc. No. 12.]

On July 28, 2017, this Court sentenced Defendant to three months in custody and three years of supervised release. [Doc. No. 161, 165.] Additionally, the Court ordered Defendant to pay restitution in the amount of \$1,000,000,000 to the Internal Revenue Service. [*Id.*] The Court further ordered that payment of restitution shall be forthwith and that Defendant had the ability to pay interest. [Doc. No. 165.]

Defendant was released from custody on or about December 12, 2017. To date, Defendant has paid a total of \$75.00 towards restitution.

II

ARGUMENT

A. This Court Must Apply Defendant’s Bond Money To the Payment of Restitution

Pursuant to 28 U.S.C. § 2044, “[o]n motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held

¹ “Doc. No.” refers to the docket number of the Clerk’s Record in Criminal Case No. 13CR0424-JLS.

1 and paid over to the United States attorney to be applied to the payment of any
 2 assessment, fine, restitution, or penalty imposed upon the defendant.” “This section shall
 3 not apply to any third party surety.” *Id.*

4 Defendant admits that the bond money belonged to him. Additionally, the
 5 Government received documents from First Republic Bank that indicate the bond money
 6 was transferred from Defendant’s business account to Defendant’s joint checking account
 7 he shared with his former wife, Karen Lynn Keller.² The bond money was withdrawn
 8 from the Defendant’s joint checking account in the form of a cashier’s check and
 9 deposited with the Clerk’s Office.

10 Given that the bond money belonged to Defendant and that Defendant has an
 11 outstanding restitution judgment, the parties jointly request that the bond money be
 12 applied towards the restitution judgment pursuant to 28 U.S.C. § 2044.

13 III

14 CONCLUSION

15 The parties request that the Court grant the joint motion to apply the bond money
 16 towards Defendant’s restitution judgment pursuant to 28 U.S.C. § 2044.

17
 18 DATED: January 23, 2018

Respectfully submitted,
 ADAM L. BRAVERMAN
 United States Attorney

21 /s/ Luella M. Caldito
 LUELLA M. CALDITO
 Assistant United States Attorney

24 /s/ Barbara Howe Murray
 BARBARA HOWE MURRAY
 MICHAEL L. LIPMAN
 Counsel for Defendant

28 ² According to the PSR, Defendant and Karen Lynn Keller divorced in 2013,
 following his arrest in this case.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEFFREY B. KELLER,

Defendant.

Case No. 13CR0424-JLS

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, Luella M. Caldito, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of the JOINT MOTION FOR PAYMENT OF RESTITUTION WITH BOND MONEY on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Barbara Murray and Michael Lipman, counsel for Defendant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 23, 2018

/s/ Luella M. Caldito
LUELLA M. CALDITO
Assistant United States Attorney